

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ORDER ADOPTING AS MODIFIED THE MAGISTRATE JUDGE'S FINDINGS AND
RECOMMENDATION TO ENTER DEFAULT JUDGMENT AND AWARD DAMAGES
AGAINST DEFENDANT TP BUILDERS, INC.

On September 12, 2011, Magistrate Judge Kurren issued his Findings and Recommendation to Enter Default Judgment and Award Damages against Defendant TP Builders, Inc. ("F&R") (ECF No. 22.) No objections to the F&R have been filed by any party.

The Court rejected a previous F&R to enter default judgment in this case because, among other things, "absent any allegation that contributions have gone unpaid, a default judgment awarding relief for delinquent contributions would be premature." (ECF No. 15.)

The Court finds that the former deficiencies have been satisfied and adopts the F&R with the following modifications.

The first full paragraph under the heading
"Recommendation" is modified to read as follows:

"In accordance with the foregoing, the Court FINDS AND RECOMMENDS that Default Judgment enter in favor of Plaintiffs Trustees of the Hawaii Carpenters Trust Funds and against Defendant for the recovery of the minimum amount of \$25,000.00 due as deposits for contributions owed pursuant to the CBA for the five employee trust funds (\$5,000 for each fund) pending completion of the required audits by the Trust Funds together with liquidated damages at the rate of twenty (20%) percent on unpaid contributions, plus interest at the rate of twelve (12%) percent until satisfaction of judgment, and attorneys' fees and costs in the amount \$1,735.40 without prejudice to the Trust Funds to seek other and further damages from the Defendant arising from unaudited hours worked by Defendant's employees both before and after September 2010."

The F&R that the Court rejected included an award of \$1,735.40 in attorneys' fees and costs. (ECF No. 15.) In rejecting that F&R, the Court stated that "because the Court's rejection of the F&R is traceable to inadequacies in the Proposed F&R, which was prepared by Plaintiffs' counsel, no additional costs or attorneys' fees concerning the motion for entry of default judgment shall be awarded to Plaintiffs." (ECF No. 15.) The instant F&R nonetheless contains an award of \$1,891.40. The Court rejects the F&R to the extent that it contains an increased

award for attorneys' fees or costs, and awards the former amount of \$1,735.40.

Pursuant to Title 28, United States Code, Section 636(b)(1)(C) and Local Rule 74.2, The Court ADOPTS the "Findings and Recommendation To Enter Default Judgment And Award Damages Against Defendant TP Builders, Inc." that was filed on September 12, 2011, as modified above.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, October 31, 2011.



Alan C. Kay

Alan C. Kay
Sr. United States District Judge

Hawaii Carpenters Trust Funds v. TP Builders, Inc., Civ. No. 11-00016 ACK-BMK: Order Adopting as Modified the Magistrate Judge's Findings and Recommendation to Enter Default Judgment and Award Damages against Defendant TP Builders, Inc.